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AMERICA'S LONGEST WAR – THE WAR ON DRUGS

ABSTRACT

The problem of using illicit drugs in the United States, which is the largest drug consumer in the world, is an important and controversial subject. The prohibition, which aimed to eliminate alcohol from the American society, ended in a failure. In the case of federal drug legislation, the first acts appeared exactly one hundred years ago. The next, intense phase began in 1970 during the presidency of Richard Nixon, when the war on drugs has been declared. Until this day, the number of acts aimed to control drug abuse has risen, with the United States also very actively involved in war on drugs on the international arena, but at the same time the number of drug users has not decreased. More and more critical voices appear, for instance in *War on Drugs: Report of the Global Commission on Drug Policy*, which directly states that the war on drugs is a failure. Even though a couple of American states have legalized the sale of marijuana, which belongs to soft drugs regarded as less harmful in comparison to hard drugs, the longest American' war cannot end after introducing numerous laws and all the costs connected with it.

KEYWORDS

drugs, U.S. law, drug criminalization, drug legalization

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The international war on drugs is an absorbing challenge for the world nowadays. To some extent, however, drugs are still a taboo within the Western political culture. At the same time a question could be asked why this is such a controversial topic? Attempts to control the usage of certain drugs have not appeared just recently. The United States and the European countries, at least for two hundred years, are a vivid example of a capitalist and consumer lifestyle. A lifestyle that includes drugs consumption. This is very visible in the case of the United States. In this article I wish to subject the notion that the long war on drugs in which the U.S. is involved, despite numerous premises indicating it has not been successful, and also some partial changes that are proposed recently, should not be expected to end possibly fast. Second, it should not be expected that war on drugs is at the final level not only because of the lack of desired results, but also because of the long-term process of its implementation. Whether it is indeed a war, is the natural point of intersection of these two concerns. Because of the enormous involvement in establishing procedures and laws of illicit drugs criminalization, and because of the costs it required through last century, especially since the 1970s, the American war on drugs would not end nor change its main policy. Too much has been invested. In order to prove that thesis, after presenting basic background information relating to drugs and mentioning other movement against psychoactive substances known as the prohibition, I will focus on the most important acts and legislations that have occurred in the U.S. federal drug policy, and just mention American efforts to control drug trafficking on the international arena. I will also indicate recent intensive criticism toward drug policy, policy on the most popular drug cannabis, and latest attempts to improve the system, which are all, however, insufficient factors to expect the end of war on drugs.

The drug abuse has a long history worldwide, but the transatlantic sphere has been the first that wanted to regulate the issue internationally¹. The growth of opium addiction, especially in Asia, affected the international trade in late nineteenth century. The countries which had their business interests there² started to realize that unilateral action might be not sufficient. Preceded by the Opium Commission held in 1909 in Shanghai, the First (1911-1912), the Second (1913),

¹ There are many examples of national regulations or attempts to regulate the use of psychoactive substances, such as anti-opium edicts imposed by Chinese emperors in 1644 and 1729 or Napoleon Bonaparte's decree banning the use of hashish in any form in Egypt at the end of eighteenth century. The whole history of drug legislation, however, has to be omitted here as the subject area of this paper focuses on the meaning of the drugs legislation for the United States in the last century.

² The United States faced the problem after taking the Philippines as a colony in 1898. Secondly, there was a goal to improve strained relations with China. *A Century of International Drug Control*, United Nation Office on Drugs and Crime. Policy Analysis and Research Branch, Vienna 2010, p. 32 (Google Books, August 27, 2014).

and the Third (1914) International Opium Conferences took place in The Hague. The International Opium Convention of 1912 was the first treaty aiming to fight against illegal drug production and trafficking. The United States was among the signatory powers.

One century later, the U.S., comprising around 5% of the global population, is the biggest consumer of drugs in the world, according to estimates, at the level of more than 25% of world demand for illicit drugs³. In some American states, like in the Netherlands, which was the first world ‘laboratory’, so-called soft drugs have become legal to some extent. But at the same time many voices are raised more and more often stating that the international battle against drugs, led by the U.S. and the EU for decades, is a failure, and has caused the opposite result than the desired goals.

Zbigniew Brzeziński in one of his articles⁴ in 2012 outlined the state of the world in the event of the collapse of the United States. In addition to the risks associated with the development of the situation in Georgia, Taiwan, South Korea, Belarus, Ukraine, Pakistan or Israel and the Middle East, he drew attention to Afghanistan and drug trafficking, which is a source of danger and generates multi-dimensional crime.

DEFINING DRUGS

The establishing of criteria which divide some of the human’s well-known drugs into the ones that should be normally accessible and the ones that definitely should be penalized appears to be very problematic. The terms drugs, narcotic drugs, narcotics or illicit drugs will be used in this article interchangeably⁵, and in the meaning that excludes those legally produced and prescribed. The discussion about drugs and the fight against them begins at the individual level where every person has their own reflections concerning what is wrong and right for our well-being in general. The international situation is vulnerable. The fear of possible conflicts, acts of aggression, terroristic or other attacks, accompanies human’ lives. Beside the external sorts of threats, including also the very important economical threats, contemporary world is able to

³ *Rethinking the “War on Drugs” Through the US-Mexico Prism*, eds. E. Zedillo, H. Wheeler, New Haven 2012; *Illicit Drugs*, The World Factbook, Central Intelligence Agency, [online] <https://www.cia.gov/library/publications/the-world-factbook/fields/2086.html>; *War on Drugs*, Report of the Global Commission on Drug Policy, June 2011, [online] <http://www.globalcommissionondrugs.org/reports/>

⁴ Z. Brzeziński, *After America*, “Foreign Policy”, January/February 2012, pp. 26–29.

⁵ The main classification of illegal psychoactive substances includes stimulants, depressants, psychedelics.

harm us from the inside. Numerous reports constantly inform about the harmful effect of food. According to some opinions, everything can be unhealthy.

The knowledge and awareness about factors which could be damaging to human beings often do not restrain their habits. Some would claim that people possess self-destructive elements, other would state that this assumption is too provocative. Is it a matter of the ‘forbidden fruit syndrome’? Nevertheless, there is a group of products that are more stirring than coffee, sugar, nicotine or alcohol, although sometimes the division between them is not sharp according to many voices. All of them, depending on the doses, can be poisonous to the human organism in the long term.

On the other hand, as it has been already mentioned earlier, for a long time some reflections appear in many circles about addictive and psychoactive products, such as alcohol and nicotine⁶, which, however, are not illegal, and yet constitute a very serious problem in the society. Nevertheless, after the era of prohibition, they have not gathered so much attention of the U.S. authorities as illegal drugs.

LESSONS FROM ALCOHOL PROHIBITION

Is then the drug policy itself able to improve the condition of the society? Prior to drug policy also the abstinence movement took place in the United States. At the beginning of the U.S. statehood the Americans consumed alcoholic beverages frequently and in significant quantities. Therefore, the initiatives attempting to counteract this have been created, especially among the representatives of the clergy. The American Society for the Promotion of Temperance was founded in 1826 in Boston, and within few years it increased to million members and five thousand local chapters. The political elites also started to see the links between crime, poverty, educational shortcomings or poor performance at work and the scourge of alcoholism. In 1823 a single purchase of more than fifteen gallons of alcohol had been banned in the state of Massachusetts. The state of Maine whereas, introduced a prohibition in 1846⁷, and efforts to accomplish that also occurred in dozens of other states. The movement of promoting life in sobriety grew successively. New

⁶ Smoking cigarettes leads to hundreds of thousands of deaths each year in the United States alone. Moreover, as reported by the Centers for Disease Control and Prevention organization, the operating component of the Department of Health and Human Services, the number of deaths caused by smoking each year is bigger than HIV virus, illegal drug use, alcohol use, motor vehicle injuries and firearm-related incidents all combined. *Health Effects of Cigarette Smoking*, Centers for Disease Control and Prevention, [online] http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/ [access: August 28, 2014].

⁷ M. A. Jones, *Historia USA. Narody i cywilizacje*, tłum. P. Skurowski, P. Ostaszewski, Gdańsk 2002, pp. 193–194.

organizations were created, the literature on the subject was published, and the first therapies appeared for those who wanted to overcome the addiction.

The problem of alcohol abuse intensified in the United States after the Civil War. The war on alcohol dovetailed to a certain extent with the woman suffrage movement. Women fought for their rights, but also for the protection of the family, for which the alcoholism among men was a big threat. Belligerent women, employer's organization of the Anti-Saloon League, churches, the political mood of the era of progressivism, this all contributed to ban the sale of alcohol in about two-thirds of the states during the First World War⁸. However, the injunction was not respected, so the prohibition supporters turned toward the federal government. In 1919 the Eighteenth Amendment⁹ to the United States Constitution banned the manufacture, sale, transport, import and export of alcohol within the whole territory of the United States. In practice, however, no mass and categorical abstinence occurred at all among American citizens, who filled in large numbers prison cells due to the violation of the Eighteenth Amendment. Prohibition stimulated the human imagination and was finessed by all possible means. It generated crime on a massive scale. Furthermore, prohibition symbolized an attack on a personal freedom for many American citizens as well. Recognized in 1929 as an unsuccessful experiment¹⁰, prohibition finally came to an end¹¹ with the aftermath of the Great Depression when it became clear that alcohol, its production, liquor tax, could have a positive impact on the American economy. The period of prohibition lasted, however, not as long as war on drugs analyzed here. The process of reversing law was not that difficult to achieve as well.

THE FIRST PHASES OF FEDERAL DRUG LEGISLATION

Two decades before the end of prohibition the American federal government passed in 1914 the Harrison Narcotics Act, which was inspired by the International Opium Convention, which was mentioned earlier. The law was not, however, a prohibition, but “a special tax on all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes”¹². Opiates

⁸ Ibidem, pp. 425–426.

⁹ A. Pułło, *Konstytucja Stanów Zjednoczonych Ameryki*, Warszawa 2002, p. 61.

¹⁰ M. A. Jones, op. cit., pp. 499–501.

¹¹ The Eighteenth Amendment was repealed by the Twenty-first Amendment to the United States Constitution of 1933. A. Pułło, op. cit., p. 63.

¹² J. A. Swartz, *Substance Abuse in America. A Documentary and Reference Guide*, Santa Barbara 2012, p. 20.

and cocaine were thus not associated with a federal offense in the United States until 1915, when the Act was implemented. It became not possible anymore to purchase narcotic drugs from legal sources. These were the first steps taken by the U.S. authorities towards the problem of the presence of drugs in American society.

In the next decade, the control over trade of narcotics with other nations was expanded and became the objective of the Narcotics Drugs Import and Export Act (known also as the Jones-Miller Act) of 1922. It was established together with the interdepartmental Federal Narcotics Control Board, which aimed to focus on the regulations that prohibited the importation and the exportation of certain drugs. The implementation of the Harrison Narcotics Act led already to the imprisonment of several thousand addicts. The next legislation appeared in 1929 as the Porter Narcotic Farm Act of 1929, which established two federal hospitals in Kentucky and Texas, specifically to treat addicts in prisons, who were overcrowding local units. The research was also conducted in these prison-based hospitals, which were called 'narcotic farms'. The results of the treatment were not successful throughout the years. That situation was not recognized as the first symptoms of the 'overcriminalization'. The farms, however, were significant in terms of becoming the cornerstones "of institutional treatment in the decades before the rise of widespread community care"¹³. They were functioning until the 1970s.

During the Great Depression the federal drug legislation in the United States also tried to improve the system. In order to achieve that, new agencies and acts were formed. An independent agency, the Federal Bureau of Narcotics, was formed in 1930 from the Narcotics Division of the Bureau Prohibition and the Federal Narcotics Control Board. The Bureau mandated the states to pass laws that would promote drug control by the Uniform State Narcotic Act of 1932. Marijuana was also included in the act, as the use of it increased in the 1930s. Whereas marijuana was a legal psychoactive substance in the United States until 1937, when the Congress established the Marijuana Tax Act, categorizing marijuana on equal terms with cocaine or opium, taxing it, and prohibiting its import into the United States. One year later, the Food and Drug Administration took control over drug safety¹⁴.

Drug use in the forties decreased, however not because of the legal restrictions but the suspension of imports due to warfare, in which the world was

¹³ M. E. Kleiman, J. E. Hawdon, *Encyclopedia of Drug Policy. "The War on Drugs". Past, Present, and Future*, Thousand Oaks 2011, p. 657.

¹⁴ U.S. Food and Drug Administration, [online] <http://www.fda.gov/aboutfda/whatwedo/history/milestones/ucml28305.htm> [access: August 29, 2014].

involved then. Additionally, the Opium Poppy Control Act of 1942¹⁵ licensed the cropping and possession of poppy plants. Poppy plants can be cultivated for opium, and to obtain food products. During the Second World War the discontinued imports from European countries raised the prices on the American market, which was an opportunity for farmers to gain from the situation, mainly in California. The objective thus of the Opium Poppy Control Act was to obey the scenario in which poppy plants would be produced in more and more amounts, and at the same time used for the narcotics aims as well. The measures to fight illicit drug presence within the American society were constantly expanded.

The sphere of federal drug legislation was introduced in the beginning of the next decade by the Boggs Act. The legislation introduced minimum penalties and fines for drug offenses as it became more and more visible that narcotic drugs trafficking and its use did not diminish. In the same year the Interdepartmental Committee on Narcotics was created in order to improve the information about drug trafficking control and knowledge about addicts' treatment. Also in 1951 the Durham-Humphrey Amendment was passed, which established more strict rules concerning drugs prescription. The last major policy legislated before the sixties was the Narcotic Control Act of 1956, known also as the Boggs-Daniels Act. The penalties and prison sentences outlined by the Boggs Act for violations of federal narcotics law increased, and did not differentiate between violations of the laws concerning opium, coca leaves, and marijuana¹⁶. It introduced, however, death penalty for the sale of opium by a person over eighteen years old to someone younger than eighteen years old.

All these federal legislations listed above were not capable of abolishing the illegal narcotics trade, or reducing it to insignificant size though. The sixties in the United States were characterized by the increasing problems within large urban agglomerations. While the richer community moved to the suburbs, the centers of the large American cities were becoming clusters of the various ethnic groups that struggled with unemployment, discrimination, and what caused circumstances for crime and drug addiction. The resolution were further legislations, which expanded the scope of involvement of authorities. The President's Advisory Commission on Narcotics and Drug Abuse of 1962, also known as the Prettyman Commission, was created after the White House Conference on Narcotics and Drug Abuse. Among its recommendations were the

¹⁵ *The Suppression of Poppy Cultivation in the United States*, United Nations Office on Drugs and Crime, [online] http://www.unodc.org/unodc/en/data-and-analysis/bulletin/bulletin_1950-01-01_3_page003.html [access: August 29, 2014].

¹⁶ D. J. Cantor, *The Criminal Law and the Narcotics Problem*, "Journal of Criminal Law and Criminology" 1961, Vol. 51, No. 5, pp. 515–516.

transfer of the Federal Bureau of Narcotics from the Department of the Treasury to the Department of Justice and the increase of number of federal agents working on drug trafficking cases¹⁷, thus increasing the number of employees in the sector of drug policy. The Community Mental Health Centers Act of 1963 established a special grant for the treatment of addicts, allowing federal support for local initiatives. With this act, the addiction also was placed under the rubric of mental illness. In 1965 the Drug Abuse Control Amendments modified the Food, Drug and Cosmetics Act, establishing strict controls over, inter alia, amphetamines, barbiturates, or LSD. The Narcotic Addict Rehabilitation Act of 1966 urged to treat addicts more as ill people than embedding them automatically in the prison system. The Act also allowed treatment programs for addicts who have committed no other offenses or crimes. The Bureau of Narcotics and Dangerous Crimes was appointed in 1968. Even before the official declaration of war on drugs, its machinery of implementing government changes, agencies and workplaces within the structure, was already present.

THE BEGINNING OF THE ERA OF AMERICA'S WAR ON DRUGS

In a period of rising use of narcotic drugs in 1970, which was also one of the consequences of the participation of American soldiers in the Vietnam War, the President Richard Nixon, who said that drugs are public enemy number one of America, signed the Comprehensive Drug Abuse and Prevention Act, known as the Controlled Substances Act¹⁸. The Act was designed to efficiently control the legitimate pharmaceutical industry and at the same time to restrict the import and distribution of illegal substances. This major legislation brought together and replaced all previous federal drug laws. The new law also established schedules of controlled substances. Additionally, the Drug Enforcement Administration and National Institute on Drug Abuse were created. While signing the Controlled Substances Act, Nixon mentioned the survey about the problem of drugs, the results of which indicated that it was a major cause of street crime in the United States and drugs were “alarmingly” on the increase in use among the youngest Americans. This situation, in Nixon’s words, became a national prob-

¹⁷ Because of John F. Kennedy’s assassination, the recommendations were implemented during the first full term of Lyndon B. Johnson’s presidency. R. Chepesiuk, *The War on Drugs: An International Encyclopedia*, Santa Barbara 1999, pp. 190–191.

¹⁸ The full text of the Controlled Substances Act available on U.S. Food and Drug Administration, [online] <http://www.fda.gov/regulatoryinformation/legislation/ucm148726.htm> [access: August 31, 2014].

lem, a major crisis. “We can deal with it. We have the laws now. We are going to go out and enforce those laws. But in order for those laws to mean anything they must have public support”¹⁹. What the declaration of war on drugs meant? Drug consumption in the United States did not decrease, but further acts were formed. This pattern remained.

The National Commission of Marijuana and Drug Abuse of 1970, created as well by the Controlled Substance Act, was to investigate the nature and dimension of the abuse of this drug. In a report published after two years, the Commission recommended to consider the decriminalization of marijuana, which could be the more effective solution than criminalization, but was rejected by the Nixon administration²⁰. The machinery of war on drugs was already too accelerated. Instead of changing the direction of drug policy, during the office years of President Richard Nixon, even three more major legislations concerning drugs were introduced. The Drug Abuse Office and Treatment Act of 1972 created the Special Action Office for Drug Abuse, establishing direction for all the federal programs limiting demand on drugs. The National Institute on Drug Abuse came into existence as well. Two laws of 1973, the Methadone Control Act and the Heroin Trafficking Act, established regulated licenses for methadone used in treating opiates addictions and increased the penalties for distributing opiates, sequentially.

The multidimensional participation was developed in the strategy of the United States, or its government, in the fight against drugs. For instance, it often relied also on the characters from the entertainment industry. Famous Elvis Presley could serve here as a tragicomic example. As a partner in the fight against psychoactive substances, he came to the White House for a meeting with Nixon in 1970. In less than seven years after that meeting, Presley died suddenly at the age of forty-two, and the autopsy revealed fourteen different drugs in his organism at the time of death²¹. His problems with addictions are now well-known.

It is believed that the distinction between the so-called hard drugs and marijuana was made at the time of the next, after Gerald Ford, presidency of Carter. Administration tended then to issue the decriminalization of marijuana as a state's choice, which should not be the responsibility of the federal government. In terms

¹⁹ R. Nixon, “Remarks on Signing the Comprehensive Drug Abuse Prevention and Control Act of 1970”, October 27, 1970. Online by G. Peters and J. T. Woolley, *The American Presidency Project*, [online] <http://www.presidency.ucsb.edu/ws/?pid=2767> [access: August 31, 2014].

²⁰ G. S. Yacoubian, *Assessing the Relationship between Marijuana Availability and Marijuana Use: A Legal and Sociological Comparison between the United States and the Netherlands*, “Journal of Alcohol & Drug Education” 2007, Vol. 51, No. 4, p. 24.

²¹ D. R. Mares, *Drug Wars and Coffee Houses. The Political Economy of the International Drug Trade*, Washington 2006, pp. 35–36.

of federal legislations however, during the terms of office of Ford and Carter, only two amendments occurred, which were extensions to the Controlled Substances Act. The federal involvement in war on drugs was maintained.

AIDS, Acquired Immune Deficiency Syndrome, has become one of the social problems in the early eighties. This incurable disease showed the helplessness and ignorance of American society, which, inter alia, has been portrayed in 2014 Academy Award winner picture *Dallas Buyers Club*. Nevertheless, with a hundred thousand deaths caused by the disease in the decade of the eighties, public awareness has grown. It was also contributed to cases such as the death of a Hollywood superstar Rock Hudson.

HIV infection, which can lead to AIDS, could be contracted in several ways, and the carelessness in the manner of drug usage is one of them as well. In the mid-eighties the presidential commission called drug trafficking the most serious problem that the organized crime presented²². Due to the price and availability, the most prevalent was the use of heroin, cocaine and the so-called crack. The scourge of drug addiction has gone beyond the metropolitan areas. More and more infants were born with congenital drug addiction.

The years of successive presidencies of Reagan and Bush were characterized by the slogan of “zero tolerance for drugs”. The fight against drugs, with significantly increased spending, again in its high point since the Nixon administration, became also the famous aspect of the presidency of Ronald Reagan (1981-1989). The Reagan administration sought to capture the illicit drugs, also the ones flowing into the United States from the outside, increase the number of arrests, and raise penalties. Again, even though the problem of drugs did not disappear despite introducing new laws in previous decades, another laws were passed. The Drug Offenders Act of 1984 established special treatment for drug offenders and the Analogue (Designer Drug) Act from the same year established control over the so-called designer drugs. Also in 1984 the Comprehensive Crime Control Act signed by Ronald Reagan aimed to sharpen the penalties for drug-related crimes as the Anti Drug Abuse Act of 1986 strengthened even more the American war on drugs in many ways. The Act established two tiers of mandatory prison terms for first-time drug traffickers and for the previously convicted offenders. Also the distinction was made between different forms of cocaine drug with the crack cocaine abuse dramatically named as the ‘national epidemic’²³. The media in that time reported about deaths of famous

²² In the second half of the eighties, more than half of serious crimes in New York and Washington have been associated with drug addiction. M. A. Jones, op. cit., p. 733.

²³ *Report on Cocaine and Federal Sentencing Policy*, United States Sentencing Commission, [online] <http://www.ussc.gov/report-cocaine-and-federal-sentencing-policy-2> [access: September 1, 2014].

sportsmen, Len Bias and Don Rogers, caused by drug abuse, which speeded the process of enactment. The First Lady Nancy Reagan was also very actively involved in the project of the famous anti-drug campaign *Just say no*.

At the end of the Cold War drug policy has permanently established itself in the priorities of the American rulers' political line and more and more was invested in war on drugs. During the presidency of Reagan's successor, George H.W. Bush (1989-1993), the Office of National Drug Policy was established by the Omnibus Drug Abuse Act of 1988. ONDCP was created in order to advise the White House on drug matters, to coordinate the efforts to control them and to transform America into a drug-free country.

Bill Clinton, a candidate for the office of president of the United States in 1992, was attacked and accused, next to adultery and avoidance of the military service, also of drug use. His statement regarding smoking marijuana went down in history, also in popular culture, when Clinton admitted that he had smoked the drug but denied he had inhaled it. Despite this statement, he won the elections twice and signed several legislations concerning drugs. Next to the issues concerning assault weapons, death penalty, gang crimes, and many more, the enormous in size Violent Crime Control and Law Enforcement Act of 1994, also focused on drug courts, drug trafficking in prisons and substance abuse treatment in federal prisons, drug-free truck stops, or drug testing of federal offenders on post-conviction release²⁴. The Act extended thus the mission of ONDCP. Among the further enacted legislations were the Comprehensive Methamphetamine Control Act of 1996, which increased penalties for manufacturing and trade of the methamphetamine drug, the Drug-Free Communities Act of 1997, which aimed to engage the American citizens in participating in reducing illicit substances abuse, the Media Campaign Act of 1998, which was directed especially to the youngest population in order to reduce drug abuse, and the Office of National Drug Control Policy Reauthorization Act of 1998, which expanded the mandate and authority of the ONDCP²⁵.

The next President George W. Bush was focused not only on the war on terror. He stated that the legalization of drugs would completely undermine the message that drugs are evil²⁶, and he had the opportunity to prove this by signing several federal drug legislations, which opened the next century of Amer-

²⁴ *Violent Crime Control and Law Enforcement Act of 1994*, The Library of Congress, [online] <http://thomas.loc.gov/cgi-bin/query/z?c103:H.R.3355.ENR>: [access: September 1, 2014].

²⁵ Office of National Drug Control Policy, [online] <http://www.whitehouse.gov/ondcp/authorization-language> [access: September 1, 2014].

²⁶ *Drugs and Society. U.S. Public Policy*, ed. J. M. Fish, Lanham 2006, p. 99 (Remarks by President Bush in announcing the new head of the Office of the National Drug Control Policy, May 10, 2001).

ican war on drugs. The Ecstasy Anti-Proliferation Act of 2000 was established to combat the trafficking, distribution, and abuse of the 'club drugs'. The prohibition of providing a place for the purpose of drug manufacture or use and profiting from it was the objective of the Illicit Drug Anti-Proliferation Act of 2003. The Act raised many questions concerning abridging economic liberties, for instance in the case of concert promoters. Two years later the Combat Methamphetamine Epidemic Act of 2005 regulated the control over illegal distribution of products used to manufacture methamphetamine stimulants²⁷. The law was incorporated into the Patriot Act in 2006. Barack Obama, the current president of the United States, five years later signed the Combat Methamphetamine Enhancement Act of 2010, which imposed on the former Combat Meth Act. The act increased restrictions and control over legal retailers.

THE UNITED STATES AND THE INTERNATIONAL DRUG CONTROL

The fight against drugs in the recent history of the United States often does not exist as a 'pure' form, but is one of the products of the foreign policy. The leader of Panama since 1981, General Manuel Noriega, was able to enjoy good relations with the United States, whom he provided valuable information about Central America. Regimes in the region were under the watchful eye of the Americans. Until 1987, when the scandal exposing the offstage of American policy called Iran-Contra broke out, Noriega's involvement in drug trafficking seemed to be invisible to the American authorities. In 1988, Noriega was accused and found guilty of collaborating with the Colombian cartel and smuggling drugs into the United States²⁸.

The Clinton administration was active in war on drugs not only in the domestic policy. In the nineties, the United States increased aid to farmers in Peru and Bolivia in order to reduce drug cultivation. The production in these countries has indeed declined, but it has grown in Colombia, contributing to an even greater increase in the supply of cocaine to the United States²⁹. These are only the examples of the international efforts. The United States intensively cooper-

²⁷ *Legal Requirements for the Sale and Purchase of Drug Products Containing Pseudoephedrine, Ephedrine, and Phenylpropanolamine*, U.S. Food and Drug Administration, [online] <http://www.fda.gov/drugs/drugsafety/informationbydrugclass/ucm072423.htm> [access: September 2, 2014].

²⁸ *International Handbook on Drug Control*, eds. S. B. MacDonald, B. Zagaris, Westport 1992, p. 3.

²⁹ D. R. Mares, op. cit., p. 17.

ates with other countries in the fight against drug trafficking, both multilaterally and bilaterally with individual countries, for example, within the Caribbean. The so-called Plan Colombia and Plan Merida are, inter alia, the examples of the support of the United States, and efforts to combat drug trade in the world. Assistance programs and billions of dollars pumped for the fight against drug cartels in Latin America are criticized by many commentators of public life as tilting at windmills. However, is it possible to not take action at all? The U.S. policy towards drugs dominates the international arena and occurs as paradoxical also outside the country. Many voices are raised that define the American fight against drugs as selective and political. Still, being so much involved in war on drugs, also together with other countries, urges to continue it as a matter of prestige.

DEFINING FAILURE

In June 2011 a message from the previous country leaders, statesmen and intellectuals from various international backgrounds raised heated debates and questions around the world. The repercussions were caused by the firm statement that the global war against drugs suffered defeat, and had crushing effects for people and the society worldwide³⁰. The report which exposed numerous and painful losses in society caused by the international fight to combat drug trade was presented in New York by the Global Commission on Drug Policy. The firm statement of an independent commission defining international efforts as inept or even meaningless, was considered as a breakthrough in the global debate on this issue. The memorial quoted the statistics of the United Nations from the years 1998-2008. During the involvement of the UN global campaign adopted by the United Nations General Assembly on Countering the World Drug Problem in the global fight against drugs, the consumption of opium and derivatives, cocaine and cannabis had increased during that decade sequentially by 34.5, 27 and 8.5%. The United Nations estimates also that nowadays about 250 million people use drugs all over the world³¹. Among the prominent personalities who signed the memorial were, among others, Kofi Annan, George Shultz, Paul Volcker, Javier Solana, Fernando Henrique Cardoso, Cesar Gaviria and Ernesto Zedillo, Ruth Dreifuss, George Papandreou, Carlos Fuentes and Mario Vargas Llosa.

The system of combating drug abuse initiated by the United Nations, including the fight against drugs announced by the American president Richard

³⁰ *War on Drugs*, op. cit., p. 2.

³¹ *Ibidem*, p. 16.

Nixon was criticized. It was called for the urgent reform of procedures which in the same way are treating persons committing drug offences, that is production or cultivation, trafficking and trading, and consumption. Meanwhile, many researches and simple logic are indicating phenomena of drug offences as the multifaceted issue in the contemporary world. The cultivation is often an occupation necessary for the survival, a very clear example here might be the cultivation of poppy in Afghanistan. The consumers, whereas, are in a great part the victims, the people being stuck in the grip of addiction, what should rather be perceived as a social and health issue rather than a criminal one. In some states of the USA, as in the other countries of the Western world, the substitution method is used in certain cases of drug dependences, which also use drugs in therapies with addicts. The practice is showing its effectiveness. Further, the report advises less criminalizing and more healing. Unlike the influential members of international drug cartel, or simply representatives of gangster environment, the traders, who deal with relatively small amounts, should also be included in victims circle. They are very often forced to take this kind of occupation because of the impossibility of finding other paid work. The Commission also commented on the archaic classification of different types of substances and their artificial distinction between illegal and legal. Amongst the latter are in fact also psychoactive substances – alcohol, tobacco, anabolic steroids, which are more dangerous than some illegal drugs according to independent experts. The memorial finally drew attention to the division between the rich and the poor on the international arena of the drug practices. The former belong to the consumers, the latter respond to the demand. Although this division is changing slowly now, still the Americans are the biggest recipients of drugs in the world, and this is why they were pointed out the most in the report. Gil Kerlikowske, the Director of the Office of National Drug Control Policy until 2014, defined the report as ‘misleading’³².

However, is it misleading to suggest decriminalization, at least in cannabis case, instead of the imprisonment of tens of thousands people? Would the successful solutions of the Kingdom of the Netherlands or Portugal, which prove that decriminalization does not result in increasing drug abuse and harshening criminalization does not lead to decreasing drug abuse as in the U.S., draw the future place of drugs in the world and American policy? Are drugs also going to be considered legal in the future, as suggested in the report, as long as people who use them do no harm to others?

Government statistics show that drugs are present in the lives of Americans, regardless of class, ethnicity, national origin, sex, occupation, employment, and even among the inmates of the state and federal prisons. The consumption is

³² M. Stasiński, *Wojna o narkotyki*, „Gazeta Wyborcza”, 3.06.2011, p. 9.

simply omnipresent. According to the data from less than a decade, approximately 19.7 million Americans over the age of twelve, or eight percent of the population of the United States, have used illegal drugs³³.

DEFINING THE MARIJUANA POLICY

Marijuana, the most common drug in use, is produced from the cannabis plant, contains THC (tetrahydrocannabinol) that causes intoxication among drug users. The content of THC affects the potency of the drug. It changes the feeling of pleasure, memory, thought, concentration, time and sensory perception, motor coordination³⁴, and it may persist for up to several hours. Numerous studies worldwide have shown that the use of marijuana negatively influences academic performance, work, and social relations, therefore it has long-term effects, not just short-term ones, immediately after use. In the case of long-term use it is an addictive substance. Comparing data from, among others, the System to Retrieve Information from Drug Evidence, the average price for a gram of marijuana in the United States less than a decade ago varied, depending on the investigators, in the range from 3 to 7.87 \$³⁵.

The American drug legislation, compared to the solutions in the Western countries, is relatively severe. Harsh penalties apply to both buyers and traders. However, marijuana policy varies depending on the state. Some of the state's policies may be even stricter than the federal policy. Purchasing and possession of cannabis is a criminal offense. Most of them are treated as criminal offenses, resulting in hundreds of thousands of arrests each year, mostly for possession. In 2006, 168 888 minors³⁶ were arrested on drug charges in the United States. Studies conducted in 2005–2006 on the prevalence of cannabis use among tenth grade students in the United States showed about 30%³⁷ use of the drug by youth.

In addition to federal politics, there are numerous variants on drug policy in the different states of the USA, and sometimes even within counties. For

³³ G. S. Yacoubian, *op. cit.*, p. 25.

³⁴ The use of cannabis has therefore an effect on driving. From 6 to 11% of the victims of car accidents show the presence of THC. *Ibidem*, p. 19.

³⁵ R. J. MacCoun, *What Can We Learn from the Dutch Cannabis Coffeeshop System?*, "Addiction" 2011, Vol. 106, p. 1907.

³⁶ B. Simons-Morton, W. Pickett, W. Boyce, T. F. M. ter Bogt, W. Vollebergh, *Cross-National Comparison of Adolescent Drinking and Cannabis Use in the United States, Canada, and the Netherlands*, "International Journal of Drug Policy" 2010, Vol. 21, No. 1, p. 65.

³⁷ *Ibidem*, p. 67.

instance, in 2007 the possession of the amount of less than an ounce was punished by a fine of one hundred dollars in New York, it was considered a crime in Nevada, and in the state of Montana selling a pound of marijuana, even for the first time, could result with a life sentence³⁸.

On the other hand, in recent years a number of American states allowed patients suffering from various diseases to use medical marijuana, California as the first state did so in 1996. However, according to federal law for possessing marijuana one could face penalties of one year imprisonment and a fine of one thousand dollars in the case of non-punishability. In California, the first such offense is punishable only by a fine up to one hundred dollars³⁹. Therefore, the acquittal by the state authorities and the punishment by the federal authorities for the possession of marijuana is not a rare case.

DEFINING THE FUTURE WAR ON DRUGS

Have the report of the Global Commission on Drug Policy, the numerous other examinations and research, influenced the drug policy of the United States whatsoever? There is information on governmental websites about the U.S. Department of State Bureau of International Narcotics and Law Enforcement Affairs (INL)⁴⁰. William R. Brownfield is currently the head of INL in the Department of State. The main task of the INL is to reduce illicit drugs in the United States and to minimize international crime associated with them. INL, however, includes in its scope not only the region of the United States, and expands its mission in four main regions – Afghanistan and Pakistan, Africa and the Middle East, Europe and Asia and the Western Hemisphere. INL is cooperating for instance with the United Nations, the Organization of American States, APEC, the governments of other countries and with other American governmental institutions.

The Office of National Drug Control Policy⁴¹ currently operates under the administration of Barack Obama, who, like his predecessors, is dedicated to the problem of the presence of drugs in American society and the consequences associated with it. It could be learned from the official government websites of the White House that the emphasis should be placed on prevention now and the understanding that the addiction doesn't result from the moral weakness of

³⁸ G. S. Yacoubian, op. cit., p. 25.

³⁹ P. Marshall, *Marijuana Laws*, "CQ Researcher" 2005, Vol. 15, No. 6.

⁴⁰ U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, [online] <http://www.state.gov/j/inl/index.htm>

⁴¹ The White House, Office of National Drug Control Policy, [online] <http://www.whitehouse.gov/ondcp>

man, but rather from illness of the mind, and drug addicts should be helped. Obama also rejects the dichotomy of the fight against drug trafficking on the one hand and the legalization on the other.

However, it was during his term of office when eyes of the world were turned toward the United States, when at the beginning of the year 2014 the state of Colorado as the first legalized the sale of marijuana for recreational purposes for adults. Washington was the next state, and now another states are trying to reach the same. The first television commercials are appearing, sales of the marijuana are taxed, and the budget of Colorado earns. For medical purposes, it is available on prescription in more than twenty states. The president himself has stated that it is a substance less harmful than alcohol.

The critics of the American war on drugs use also many other arguments. It was estimated that the expenses on this war so far constituted more than the unimaginable number of trillion dollars. It is more common to capture someone for the drug offense than a murderer. The drug war 'machinery' is thus expanding, in the form of the enlargement of police, the prison system and its headquarters, computers, weapons, or cars. The percentage of the population behind the prison bars is the highest in the U.S. Because of the drug legislation about half million of Americans are imprisoned now, often with broken career and family life, which is not good for the society as a whole⁴². More and more radical voices appear which try to focus the eyes of public opinion on the fact that disproportionately more Afro-Americans are imprisoned. Regardless of that aspect, the use of drugs has not decreased during the war that lasts several decades in the U.S. And what has not been destroyed by drugs, has been destroyed by the war on drugs.

The National Drug Control Strategy⁴³ of 2014, the latest presidential plan concerning the drug problem in the U.S., aims to introduce a reformed 21st century approach. It is interpreted diversely. The opponents of the war on drugs are disappointed. Their argumentations point out the fact that the expenditures are going to increase even more, and despite the change of rhetoric, the numerous ideas how to improve the condition of the American society in terms of illicit drug usage are not changing the basic law. Drugs are not going to be legalized or decriminalized, and the imprisonment continues to be the main punishment, even though the White House admits the war on drugs has been a failure to some extent. The supporters on the other hand, perceive the strategy as a step in the good direction, and interpret the objectives of prevention and treatment, as the beginning of the end of the American war on drugs.

⁴² *War on Drugs*, op. cit.

⁴³ The National Drug Control Strategy, The Executive Office of the President of the United States, 2014.

Beyond wars in the international relations context, the U.S. has led many of them - the war on terrorism, illiteracy, unemployment, discrimination, hunger, inflation, or corruption. The war on drugs though, is called the longest America's war, not only because of its length, but the dimension, range, outcomes, and costs. The U.S. is the country most engaged in the war on drugs on the globe. Nevertheless, "drug trafficking is like the mythical hydra: every time when one head is cut off, another grows in its place"⁴⁴. The statistics and surveys alarm about the inefficiency of the policy of criminalization of drug crimes. Some states decided to legalize soft drugs. Through several decades though the scale of procedures and measures, especially in the federal law legislation and enforcement, do not allow to change it drastically in the near future, for instance by legalizing illicit drugs. The American war on drugs has created the system that is too hard to abandon.

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